

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION

-----X	:	
ENERGY INTELLIGENCE GROUP, INC. :	:	
and ENERGY INTELLIGENCE :	:	
GROUP (UK) LIMITED, :	:	Civil Action No. 1:15-cv-274
Plaintiffs, :	:	
-against- :	:	JURY TRIAL DEMANDED
UNITED REFINING COMPANY :	:	
Defendant. :	:	
-----X	:	

COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiffs Energy Intelligence Group, Inc. (“EIG”) and Energy Intelligence Group (UK) Limited (“EIG UK”) (EIG and EIG UK are hereinafter collectively referred to as, “Plaintiffs”), by and through their undersigned counsel, allege the following for their Complaint against Defendant United Refining Company (“Defendant”), based on personal knowledge and on information and belief as appropriate:

INTRODUCTION

1. Plaintiffs bring this action against Defendant under the Copyright Act of 1976, 17 U.S.C. §§ 101 *et seq.* (the “Copyright Act”) for, among other things, willful infringement of Plaintiffs’ registered copyrights.

THE PARTIES

2. Plaintiff EIG is a Delaware corporation with a principal place of business located at 5 East 37th Street, New York, New York 10016-2807.

3. Plaintiff EIG UK is a United Kingdom limited company with a principal place of business located at Interpark House 7, Down Street, London, WC1V 6PW United Kingdom.

4. Upon information and belief, Defendant is a Pennsylvania corporation with a principal place of business located at 15 Bradley Street, Warren, Pennsylvania 16365.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this dispute pursuant to Sections 501, *et seq.* of the Copyright Act and 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendant because, upon information and belief, Defendant resides in and is doing business in the State of Pennsylvania and in this District. Furthermore, upon information and belief, many of the acts of infringement alleged in this Complaint occurred within this District.

7. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and 1400(a).

FACTS COMMON TO ALL COUNTS

A. Plaintiffs' Publications

8. Plaintiffs and their predecessors-in-interest have been engaged in publishing newsletters and other publications for the highly-specialized global energy industry for over six decades. In particular, Plaintiffs and their predecessors-in-interest have published the daily newsletter *Oil Daily* ("OD") since 1951, and have published the weekly newsletter *Petroleum Intelligence Weekly* ("PIW") since 1961.

9. The audience for Plaintiffs' publications, including OD and PIW, consists predominantly of individuals with an interest in the oil and gas industries, including bankers, investors, stock market analysts, traders, commodity analysts and others who follow these industries. Copies of the April 23, 2015 issue of OD (the "April 23, 2015 OD Copyrighted Work") and the April 20,

2015 issue of PIW (the “April 20, 2015 PIW Copyrighted Work”) are attached hereto as Exhibits A and B, respectively.

10. Plaintiffs’ focus is on providing original, high quality articles and analysis relating to the oil and gas industries, and Plaintiffs have invested significant time and resources to develop their publications and services, including OD and PIW.

11. Plaintiffs maintain an experienced and knowledgeable editorial staff of approximately sixty (60) reporters, editors, and analysts at seven (7) editorial bureaus located in New York, Washington, D.C., Houston, London, Moscow, Dubai and Singapore.

12. The original content and information gathered by Plaintiffs and included in OD, PIW and their other original publications are valuable assets. Plaintiffs also publish other original publications in addition to OD and PIW, which include the following:

- Energy Compass;
- Energy Intelligence Briefing;
- EI Finance;
- International Oil Daily;
- Jet Fuel Intelligence;
- LNG Intelligence;
- Natural Gas Week;
- NGW’s Gas Market Reconnaissance;
- Nefte Compass;
- Oil Market Intelligence;
- Nuclear Intelligence Weekly;
- World Gas Intelligence;
- EI New Energy;
- Petroleum Intelligence Weekly Data Source;
- Oil Market Intelligence Data Source;
- Natural Gas Weekly Data Source;
- World Gas Intelligence Data Source;
- Nefte Compass Data Source; and
- EI New Energy Data Source.

13. Plaintiffs have developed an invaluable reputation for their extremely high standards and the reliability of the content of all of their publications, including OD and PIW.

14. In order for third parties to benefit from Plaintiffs' analytical and creative content contained in OD, PIW and their other publications, Plaintiffs require interested parties to purchase various subscriptions to access the valuable information contained therein.

15. Interested parties have various subscription options depending on their respective needs. Subscribers typically obtain OD, PIW and Plaintiffs' other publications by email and/or from Plaintiffs' website, which permits password-protected access to current and/or archived issues, pursuant to a subscription or license agreement.

16. Interested parties that do not maintain a subscription or license agreement may also purchase individual articles appearing in OD, PIW and other of Plaintiffs' publications, as well as archived issues, from Plaintiffs using Plaintiffs' pay-per-article service. The license fee per article, per copy, for the OD publication is \$9.00. The license fee per article, per copy, for the PIW publication is \$24.00. The license fee for this Pay-Per-Article service is multiplied by the number of copies of the requested article to calculate the total license fee.

17. Interested parties that do not maintain a subscription or license agreement may also purchase individual issues of OD, PIW and others of Plaintiff's publications, as well as archived issues, from Plaintiffs using Plaintiffs' pay-per-issue service. The license fee per issue, per copy, for the OD publication is \$95.00. The license fee per issue, per copy, for the PIW publication is \$395.00. The license fee for this pay-per-issue service is multiplied by the number of copies of the requested issue to calculate the total licensing fee.

B. Plaintiffs' Copyrights and Notices

18. Plaintiffs provides copyright notices and warnings on their website, e-mails, articles and publications, including OD and PIW, so that third parties are aware of Plaintiffs' rights in its publications and works of original authorship (the "Copyright Notice and Warnings"). As a representative example, the Copyright Notice and Warnings contained in the e-mails transmitting both the April 23, 2015 OD Copyrighted Work and the April 20, 2015 PIW Copyrighted Work state:

Copyright © 2015 Energy Intelligence Group, Inc. All rights reserved.

Reproduction or distribution internally or externally in any manner (photostatically, electronically, or via facsimile), including by sharing printed copies, or forwarding or posting on local- and wide-area networks and intranets, or sharing user name and password, is strictly prohibited without appropriate license from Energy Intelligence – contact CustomerService@energyintel.com for more information.

True and accurate copies of the Copyright Notice and Warnings contained in the e-mails transmitting the April 23, 2015 OD Copyrighted Work and the April 20, 2015 PIW Copyrighted Work are attached hereto as Exhibits C and D, respectively.

19. As an additional representative example, the Copyright Notice and Warnings on the front cover of both the April 23, 2015 OD Copyrighted Work and the April 20, 2015 PIW Copyrighted Work specifically state: "Copyright © 2015 Energy Intelligence Group. All rights reserved. Unauthorized access or electronic forwarding, even for internal use, is prohibited." Exhibit A, p. 1; Exhibit B, p. 1.

20. As a further representative example, the Copyright Notice and Warnings contained in the April 6, 2015 NGW Copyrighted Work specifically state:

COPYRIGHT © 2015 by Energy Intelligence Group, Inc. . . . All rights reserved. Access, distribution and reproduction are subject to the terms and conditions of the subscription agreement and/or license with Energy Intelligence. Access, distribution, reproduction or electronic forwarding not specifically defined and authorized in a valid subscription agreement or license with Energy Intelligence is willful copyright infringement. Additional copies of individual articles may be obtained using the pay-per-article feature offered at www.energyintel.com.

Exhibit A, p. 6; Exhibit B, p. 15.

21. Based upon the representative examples of the Copyright Notice and Warnings, Plaintiffs are in compliance with the copyright notice requirements set forth in the Copyright Act, 17 U.S.C. § 401. Accordingly, Defendant knew or should have known that the April 23, 2015 OD Copyrighted Work, the April 20, 2015 PIW Copyrighted Work, and all other issues of OD and PIW received by Defendant (hereinafter collectively referred to as the “Copyrighted Works”) were protected by U.S. copyright laws.

22. Having complied with the copyright notice requirements set forth in the Copyright Act, 17 U.S.C. § 401, Plaintiffs have provided Defendant with complete and proper notice of Plaintiffs’ copyright rights.

23. Among other copyright registrations, Plaintiff is the owner of the following U.S.

Copyright Registrations for the OD Copyrighted Works, attached hereto as Exhibit E:

- No. TX 6-052-767 for Vol. 54 covering 22 works published June 2004;
- No. TX 6-052-513 for Vol. 54 covering 21 works published July 2004;
- No. TX 6-052-765 for Vol. 54 covering 22 works published August 2004;
- No. TX 6-052-758 for Vol. 54 covering 21 works published September 2004;
- No. TX 6-052-761 for Vol. 54 covering 21 works published October 2004;
- No. TX 6-099-059 for Vol. 54 covering 20 works published November 2004;
- No. TX 6-099-058 for Vol. 54 covering 21 works published December 2004;
- No. TX 6-152-002 for Vol. 55 covering 20 works published January 2005;
- No. TX 6-185-812 for Vol. 55 covering 19 works published February 2005;
- No. TX 6-167-638 for Vol. 55 covering 22 works published March 2005;

- No. TX 6-176-605 for Vol. 55 covering 21 works published April 2005;
- No. TX 6-172-297 for Vol. 55 covering 21 works published May 2005;
- No. TX 6-206-684 for Vol. 55 covering 22 works published June 2005;
- No. TX 6-206-680 for Vol. 55 covering 20 works published July 2005;
- No. TX 6-226-396 for Vol. 55 covering 23 works published August 2005;
- No. TX 6-226-407 for Vol. 55 covering 21 works published September 2005;
- No. TX 6-257-042 for Vol. 55 covering 21 works published October 2005;
- No. TX 6-267-191 for Vol. 55 covering 20 works published November 2005;
- No. TX 6-340-912 for Vol. 55 covering 21 works published December 2005;
- No. TX 6-286-047 for Vol. 56 covering 20 works published in January 2006;
- No. TX 6-340-550 for Vol. 56 covering 19 works published in February 2006;
- No. TX 6-337-677 for Vol. 56 covering 23 works published in March 2006;
- No. TX 6-782-058 for Vol. 56 covering 19 works published in April 2006;
- No. TX 6-425-046 for Vol. 56 covering 22 works published in May 2006;
- No. TX 6-425-037 for Vol. 56 covering 22 works published in June 2006;
- No. TX 6-431-332 for Vol. 56 covering 19 works published in July 2006;
- No. TX 6-431-344 for Vol. 56 covering 23 works published in August 2006;
- No. TX 6-456-925 for Vol. 56 covering 20 works published in September 2006;
- No. TX 6-508-701 for Vol. 56 covering 22 works published in October 2006;
- No. TX 6-505-161 for Vol. 56 covering 20 works published in November 2006;
- No. TX 6-508-675 for Vol. 56 covering 20 works published in December 2006;
- No. TX 6-550-424 for Vol. 57 covering 21 works published in January 2007;
- No. TX 6-550-616 for Vol. 57 covering 19 works published in February 2007;
- No. TX 6-550-614 for Vol. 57 covering 22 works published in March 2007;
- No. TX 6-587-006 for Vol. 57 covering 20 works published in April 2007;
- No. TX 6-564-745 for Vol. 57 covering 22 works published in May 2007;
- No. TX 6-626-689 for Vol. 57 covering 21 works published in June 2007;
- No. TX 6-626-690 for Vol. 57 covering 21 works published in July 2007;
- No. TX 6-626-278 for Vol. 57 covering 23 works published in August 2007;
- No. TX 6-626-280 for Vol. 57 covering 19 works published in September 2007;
- No. TX 6-648-210 for Vol. 57 covering 23 works published in October 2007;
- No. TX 6-645-633 for Vol. 57 covering 20 works published in November 2007;
- No. TX 6-645-632 for Vol. 57 covering 20 works published in December 2007;
- No. TX 6-646-218 for Vol. 58 covering 21 works published in January 2008;
- No. TX 6-648-381 for Vol. 58 covering 20 works published in February 2008;
- No. TX 6-648-380 for Vol. 58 covering 20 works published in March 2008;
- No. TX 6-647-038 for Vol. 58 covering 22 works published in April 2008;
- No. TX 6-647-107 for Vol. 58 covering 21 works published in May 2008;
- No. TX 6-648-007 for Vol. 58 covering 21 works published in June 2008;
- No. TX 6-662-761 for Vol. 58 covering 22 works published in July 2008;
- No. TX 6-665-575 for Vol. 58 covering 21 works published in August 2008;
- No. TX 6-680-142 for Vol. 58 covering 21 works published in September 2008;
- No. TX 6-662-749 for Vol. 58 covering 23 works published in October 2008;
- No. TX 6-664-308 for Vol. 58 covering 18 works published in November 2008;
- No. TX 6-664-309 for Vol. 58 covering 22 works published in December 2008;
- No. TX 6-647-241 for Vol. 59 covering 20 works published in January 2009;

- No. TX 6-631-529 for Vol. 59 covering 19 works published in February 2009;
- No. TX 6-647-244 for Vol. 59 covering 22 works published in March 2009;
- No. TX 6-665-630 for Vol. 59 covering 21 works published in April 2009;
- No. TX 6-631-518 for Vol. 59 covering 20 works published in May 2009;
- No. TX 6-631-525 for Vol. 59 covering 22 works published in June 2009;
- No. TX 6-685-271 for Vol. 59 covering 22 works published in July 2009;
- No. TX 6-684-118 for Vol. 59 covering 21 works published in August 2009;
- No. TX 6-701-938 for Vol. 59 covering 21 works published in September 2009;
- No. TX 6-701-939 for Vol. 59 covering 22 works published in October 2009;
- No. TX 6-702-127 for Vol. 59 covering 21 works published in November 2009;
- No. TX 6-702-124 for Vol. 59 covering 22 works published in December 2009;
- No. TX 6-701-924 for Vol. 60 covering 20 works published in January 2010;
- No. TX 6-701-927 for Vol. 60 covering 20 works published in February 2010;
- No. TX 6-703-824 for Vol. 60 covering 23 works published in March 2010;
- No. TX 6-703-826 for Vol. 60 covering 21 works published in April 2010;
- No. TX 6-704-578 for Vol. 60 covering 20 works published in May 2010;
- No. TX 6-704-734 for Vol. 60 covering 22 works published in June 2010;
- No. TX 6-705-213 for Vol. 60 covering 22 works published in July 2010;
- No. TX 6-770-133 for Vol. 60 covering 22 works published in August 2010;
- No. TX 6-770-132 for Vol. 60 covering 22 works published in September 2010;
- No. TX 6-772-066 for Vol. 60 covering 21 works published in October 2010;
- No. TX 6-771-213 for Vol. 60 covering 21 works published in November 2010;
- No. TX 6-778-772 for Vol. 60 covering 21 works published in December 2010;
- No. TX 6-776-062 for Vol. 61 covering 21 works published in January 2011;
- No. TX 6-776-069 for Vol. 61 covering 20 works published in February 2011;
- No. TX 6-779-252 for Vol. 61 covering 23 works published in March 2011;
- No. TX 6-779-251 for Vol. 61 covering 20 works published in April 2011;
- No. TX 6-779-316 for Vol. 61 covering 21 works published in May 2011;
- No. TX 6-776-025 for Vol. 61 covering 22 works published in June 2011;
- No. TX 6-782-122 for Vol. 61 covering 21 works published in July 2011;
- No. TX 6-774-709 for Vol. 61 covering 23 works published in August 2011;
- No. TX 6-780-004 for Vol. 61 covering 22 works published in September 2011;
- No. TX 6-780-005 for Vol. 61 covering 21 works published in October 2011;
- No. TX 6-782-123 for Vol. 61 covering 22 works published in November 2011;
- No. TX 6-782-124 for Vol. 61 covering 12 works published in December 2011;
- No. TX 6-789-069 for Vol. 61 covering 9 works published in December 2011;
- No. TX 6-774-708 for Vol. 62 covering 21 works published in January 2012;
- No. TX 6-786-171 for Vol. 62 covering 21 works published in February 2012;
- No. TX 6-787-504 for Vol. 62 covering 22 works published in March 2012;
- No. TX 6-787-503 for Vol. 62 covering 20 works published in April 2012;
- No. TX 6-788-123 for Vol. 62 covering 23 works published in May 2012;
- No. TX 6-788-122 for Vol. 62 covering 21 works published in June 2012;
- No. TX 6-789-191 for Vol. 62 covering 22 works published in July 2012;
- No. TX 6-790-253 for Vol. 62 covering 23 works published in August 2012;
- No. TX 6-790-252 for Vol. 62 covering 20 works published in September 2012;
- No. TX 6-790-254 for Vol. 62 covering 22 works published in October 2012;

- No. TX 6-790-255 for Vol. 62 covering 22 works published in November 2012;
- No. TX 7-676-538 for Vol. 62 covering 20 works published in December 2012;
- No. TX 7-676-528 for Vol. 63 covering 22 works published in January 2013;
- No. TX 7-744-517 for Vol. 63 covering 20 works published in February 2013;
- No. TX 7-744-541 for Vol. 63 covering 20 works published in March 2013;
- No. TX 7-726-260 for Vol. 63 covering 22 works published in April 2013;
- No. TX 7-726-259 for Vol. 63 covering 23 works published in May 2013;
- No. TX 7-726-232 for Vol. 63 covering 20 works published in June 2013;
- No. TX 7-989-343 for Vol. 63 covering 23 works published in July 2013;
- No. TX 7-946-126 for Vol. 63 covering 22 works published in August 2013;
- No. TX 7-898-912 for Vol. 63 covering 21 works published in September 2013;
- No. TX 7-991-979 for Vol. 63 covering 23 works published in October 2013;
- No. TX 9-068-878 for Vol. 63 covering 21 works published in November 2013;
- No. TX 8-058-300 for Vol. 63 covering 21 works published in December 2013;
- No. TX 7-962-816 for Vol. 64 covering 22 works published in January 2014;
- No. TX 7-990-336 for Vol. 64 covering 20 works published in February 2014;
- No. TX 7-993-575 for Vol. 64 covering 21 works published in March 2014;
- No. TX 7-934-103 for Vol. 64 covering 21 works published in April 2014;
- No. TX 7-966-215 for Vol. 64 covering 21 works published in May 2014;
- No. TX 7-982-542 for Vol. 64 covering 22 works published in June 2014;
- No. TX 8-050-420 for Vol. 64 covering 23 works published in July 2014;
- No. TX 8-086-895 for Vol. 64 covering 21 works published in August 2014;
- No. TX 8-029-377 for Vol. 64 covering 22 works published in September 2014;
- No. TX ----- for Vol. 64 covering 22 works published in October 2014 (application pending);
- No. TX 8-060-210 for Vol. 64 covering 21 works published in November 2014;
- No. TX 8-109-803 for Vol. 64 covering 22 works published in December 2014;
- No. TX 8-051-089 for Vol. 65 covering 21 works published in January 2015;
- No. TX ----- for Vol. 65 covering 21 works published in February 2015 (application pending);
- No. TX ----- for Vol. 65 covering 23 works published in March 2015 (application pending);
- No. TX ----- for Vol. 65 covering 21 works published in April 2015 (application pending);
- and
- No. TX ----- for Vol. 65 covering 20 works published in May 2015 (application pending);
- No. TX ----- for Vol. 65 covering 22 works published in June 2015 (application pending);
- No. TX ----- for Vol. 65 covering 23 works published in July 2015 (application pending);
- No. TX ----- for Vol. 65 covering 21 works published in August 2015 (application pending);
- No. TX ----- for Vol. 65 covering 22 works published in September 2015 (application pending).

24. Among other copyright registrations, Plaintiffs are the owners of the following U.S.

Copyright Registrations for the PIW Copyrighted Works, attached hereto as Exhibit F:

- No. TX 6-015-324 for Vol. 43 covering 5 works published in May 2004;
- No. TX 6-015-324 for Vol. 43 covering 4 works published in June 2004;
- No. TX 6-015-323 for Vol. 43 covering 5 works published in July 2004;
- No. TX 6-019-426 for Vol. 43 covering 5 works published in August 2004;
- No. TX 6-065-370 for Vol. 43 covering 4 works published in September 2004;
- No. TX 6-055-421 for Vol. 43 covering 4 works published in October 2004;
- No. TX 6-099-347 for Vol. 43 covering 5 works published in November 2004;
- No. TX 6-099-342 for Vol. 43 covering 3 works published in December 2004;
- No. TX 6-124-329 for Vol. 44 covering 5 works published in January 2005;
- No. TX 6-124-329 for Vol. 44 covering 4 works published in February 2005;
- No. TX 6-146-622 for Vol. 44 covering 4 works published in March 2005;
- No. TX 6-146-620 for Vol. 44 covering 4 works published in April 2005;
- No. TX 6-171-989 for Vol. 44 covering 5 works published in May 2005;
- No. TX 6-203-950 for Vol. 44 covering 4 works published in June 2005;
- No. TX 6-225-373 for Vol. 44 covering 4 works published in July 2005;
- No. TX 6-224-843 for Vol. 44 covering 5 works published in August 2005;
- No. TX 6-227-290 for Vol. 44 covering 4 works published in September 2005;
- No. TX 6-210-693 for Vol. 44 covering 4 works published in October 2005;
- No. TX 6-253-452 for Vol. 44 covering 4 works published in November 2005;
- No. TX 6-340-918 for Vol. 44 covering 3 works published in December 2005;
- No. TX 6-300-730 for Vol. 45 covering 5 works published in January 2006;
- No. TX 6-321-288 for Vol. 45 covering 4 works published in February 2006;
- No. TX 6-321-292 for Vol. 45 covering 4 works published in March 2006;
- No. TX 6-346-015 for Vol. 45 covering 4 works published in April 2006;
- No. TX 6-425-308 for Vol. 45 covering 5 works published in May 2006;
- No. TX 6-397-447 for Vol. 45 covering 4 works published in June 2006;
- No. TX 6-481-099 for Vol. 45 covering 5 works published in July 2006;
- No. TX 6-431-290 for Vol. 45 covering 4 works published in August 2006;
- No. TX 6-461-775 for Vol. 45 covering 4 works published in September 2006;
- No. TX 6-481-421 for Vol. 45 covering 5 works published in October 2006;
- No. TX 6-489-755 for Vol. 45 covering 4 works published in November 2006;
- No. TX 6-508-177 for Vol. 45 covering 3 works published in December 2006;
- No. TX 6-506-663 for Vol. 46 covering 5 works published in January 2007;
- No. TX 6-543-911 for Vol. 46 covering 4 works published in February 2007;
- No. TX 6-549-387 for Vol. 46 covering 4 works published in March 2007;
- No. TX 6-576-049 for Vol. 46 covering 5 works published in April 2007;
- No. TX 6-611-053 for Vol. 46 covering 4 works published in May 2007;
- No. TX 6-626-619 for Vol. 46 covering 4 works published in June 2007;
- No. TX 6-626-616 for Vol. 46 covering 5 works published in July 2007;
- No. TX 6-628-389 for Vol. 46 covering 4 works published in August 2007;
- No. TX 6-628-386 for Vol. 46 covering 4 works published in September 2007;
- No. TX 6-628-329 for Vol. 46 covering 5 works published in October 2007;

- No. TX 6-663-779 for Vol. 46 covering 4 works published in November 2007;
- No. TX 6-663-246 for Vol. 46 covering 4 works published in December 2007;
- No. TX 6-647-640 for Vol. 47 covering 4 works published in January 2008;
- No. TX 6-666-159 for Vol. 47 covering 4 works published in February 2008;
- No. TX 6-666-164 for Vol. 47 covering 5 works published in March 2008;
- No. TX 6-677-872 for Vol. 47 covering 4 works published in April 2008;
- No. TX 6-677-865 for Vol. 47 covering 4 works published in May 2008;
- No. TX 6-648-020 for Vol. 47 covering 5 works published in June 2008;
- No. TX 6-648-175 for Vol. 47 covering 4 works published in July 2008;
- No. TX 6-679-209 for Vol. 47 covering 4 works published in August 2008;
- No. TX 6-678-878 for Vol. 47 covering 5 works published in September 2008;
- No. TX 6-682-031 for Vol. 47 covering 4 works published in October 2008;
- No. TX 6-682-704 for Vol. 47 covering 4 works published in November 2008;
- No. TX 6-682-706 for Vol. 47 covering 4 works published in December 2008;
- No. TX 6-684-570 for Vol. 48 covering 4 works published in January 2009;
- No. TX 6-769-895 for Vol. 48 covering 4 works published in February 2009;
- No. TX 6-688-124 for Vol. 48 covering 5 works published in March 2009;
- No. TX 6-688-118 for Vol. 48 covering 4 works published in April 2009;
- No. TX 6-701-330 for Vol. 48 covering 4 works published in May 2009;
- No. TX 6-701-334 for Vol. 48 covering 5 works published in June 2009;
- No. TX 6-684-727 for Vol. 48 covering 4 works published in July 2009;
- No. TX 6-684-722 for Vol. 48 covering 5 works published in August 2009;
- No. TX 6-769-426 for Vol. 48 covering 4 works published in September 2009;
- No. TX 6-769-891 for Vol. 48 covering 4 works published in October 2009;
- No. TX 6-778-043 for Vol. 48 covering 5 works published in November 2009;
- No. TX 6-704-731 for Vol. 48 covering 3 works published in December 2009;
- No. TX 6-716-599 for Vol. 49 covering 4 works published in January 2010;
- No. TX ----- for Vol. 49 covering 4 works published in February 2010 (application pending);
- No. TX 6-776-727 for Vol. 49 covering 5 works published in March 2010;
- No. TX 6-776-729 for Vol. 49 covering 4 works published in April 2010;
- No. TX 6-716-395 for Vol. 49 covering 5 works published in May 2010;
- No. TX 6-778-532 for Vol. 49 covering 4 works published in June 2010;
- No. TX 6-778-544 for Vol. 49 covering 4 works published in July 2010;
- No. TX 6-777-320 for Vol. 49 covering 5 works published in August 2010;
- No. TX 6-777-323 for Vol. 49 covering 4 works published in September 2010;
- No. TX 6-780-143 for Vol. 49 covering 4 works published in October 2010;
- No. TX 6-784-293 for Vol. 49 covering 5 works published in November 2010;
- No. TX 6-784-294 for Vol. 49 covering 4 works published in December 2010;
- No. TX 6-785-262 for Vol. 50 covering 4 works published in January 2011;
- No. TX 6-785-261 for Vol. 50 covering 4 works published in February 2011;
- No. TX 6-781-707 for Vol. 50 covering 4 works published in March 2011;
- No. TX 6-781-718 for Vol. 50 covering 4 works published in April 2011;
- No. TX 6-788-149 for Vol. 50 covering 5 works published in May 2011;
- No. TX 6-788-156 for Vol. 50 covering 4 works published in June 2011;
- No. TX 7-600-118 for Vol. 50 covering 4 works published in July 2011;

- No. TX----- for Vol. 50 covering 5 works published in August 2011 (application pending);
- No. TX 7-589-991 for Vol. 50 covering 4 works published in September 2011;
- No. TX 7-591-201 for Vol. 50 covering 5 works published in October 2011;
- No. TX 7-617-878 for Vol. 50 covering 4 works published in November 2011;
- No. TX 7-617-906 for Vol. 50 covering 4 works published in December 2011;
- No. TX 7-616-207 for Vol. 51 covering 4 works published in January 2012;
- No. TX 7-616-223 for Vol. 51 covering 4 works published in February 2012;
- No. TX 7-592-850 for Vol. 51 covering 4 works published in March 2012;
- No. TX 7-592-833 for Vol. 51 covering 5 works published in April 2012;
- No. TX 7-630-872 for Vol. 51 covering 4 works published in May 2012;
- No. TX 7-633-324 for Vol. 51 covering 4 works published in June 2012;
- No. TX 7-660-936 for Vol. 51 covering 5 works published in July 2012;
- No. TX 7-615-883 for Vol. 51 covering 4 works published in August 2012;
- No. TX 7-614-540 for Vol. 51 covering 4 works published in September 2012;
- No. TX 8-054-492 for Vol. 51 covering 5 works published in October 2012;
- No. TX 8-054-625 for Vol. 51 covering 4 works published in November 2012;
- No. TX 7-690-109 for Vol. 51 covering 4 works published in December 2012;
- No. TX 7-690-163 for Vol. 52 covering 4 works published in January, 2013;
- No. TX 7-707-499 for Vol. 52 covering 4 works published in February, 2013;
- No. TX 7-707-574 for Vol. 52 covering 4 works published in March, 2013;
- No. TX 7-732-158 for Vol. 52 covering 5 works published in April, 2013;
- No. TX 7-732-176 for Vol. 52 covering 4 works published in May, 2013;
- No. TX----- for Vol. 52 covering 5 works published in June 2013 (application pending);
- No. TX 7-764-090 for Vol. 52 covering 5 works published in July, 2013;
- No. TX 7-759-230 for Vol. 52 covering 4 works published in August, 2013;
- No. TX 7-958-639 for Vol. 52 covering 5 works published in September, 2013;
- No. TX 7-808-539 for Vol. 52 covering 4 works published in October, 2013;
- No. TX 7-955-129 for Vol. 52 covering 4 works published in November 2013;
- No. TX 7-808-959 for Vol. 52 covering 4 works published in December 2013;
- No. TX 7-852-542 for Vol. 53 covering 4 works published in January 2014;
- No. TX 7-890-770 for Vol. 53 covering 4 works published in February 2014;
- No. TX 7-927-058 for Vol. 53 covering 5 works published in March 2014;
- No. TX 7-891-100 for Vol. 53 covering 4 works published in April 2014;
- No. TX 7-941-642 for Vol. 53 covering 4 works published in May 2014;
- No. TX 7-942-475 for Vol. 53 covering 5 works published in June 2014;
- No. TX 7-933-072 for Vol. 53 covering 4 works published in July 2014;
- No. TX 7-943-808 for Vol. 53 covering 4 works published in August 2014;
- No. TX 7-958-639 for Vol. 53 covering 5 works published in September 2014;
- No. TX ----- for Vol. 53 covering 4 works published in October 2014 (application pending);
- No. TX0 7-985-840 for Vol. 53 covering 4 works published in November 2014;
- No. TX0 7-993-949 for Vol. 53 covering 4 works published in December 2014;
- No. TX ----- for Vol. 54 covering 4 works published in January 2015 (application pending);
- No. TX ----- for Vol. 54 covering 4 works published in February 2015 (application pending);
- No. TX ----- for Vol. 54 covering 5 works published in March 2015 (application pending);

- No. TX ----- for Vol. 54 covering 4 works published in April 2015 (application pending);
- No. TX ----- for Vol. 54 covering 4 works published in May 2015 (application pending);
- No. TX ----- for Vol. 54 covering 5 works published in June 2015 (application pending);
- No. TX ----- for Vol. 54 covering 4 works published in July 2015 (application pending);
- No. TX ----- for Vol. 54 covering 5 works published in August 2015 (application pending);
- No. TX ----- for Vol. 54 covering 4 works published in September 2015 (application pending);

C. Defendant's OD Subscription History

25. From at least as early as 1993 through the present, Defendant has maintained a single-copy subscription to OD.

26. Defendant received OD by print or fax delivery until on or about November 11, 1999, when Defendant elected to receive its single copy of OD via email delivery as a PDF attachment. At that time, the designated recipient of the OD publication was Kim California, and the email address designated for delivery of OD was kjohnson@urc.com.

27. On or about July 9, 2004, Defendant submitted a renewal and changed the designated email address for the account from kjohnson@urc.com to kcalifornia@urc.com.

28. On or about July 27, 2011, Defendant submitted a request to Plaintiffs to change the name on this account from Kim California to Kelly Schwanke, and change the designated email address on the account from kcalifornia@urc.com to kschwanke@urc.com, and these changes were made by Plaintiffs.

29. Defendant's current single-copy subscription to OD expires on June 20, 2016.

30. From at least as early as 1993 through the present, Plaintiffs transmitted to Defendant an invoice and subscription agreement on an annual basis for the renewal of the single-copy subscription to OD. By way of example, the subscription agreement for the single-copy subscription to OD, in effect on April 23, 2015 (the "Agreement"), attached hereto as Exhibit G,

specifically states that “[b]y payment hereof, you hereby acknowledge receipt, review and acceptance of Energy Intelligence’s terms and conditions shown below.”

31. The Agreement further states in part that “[a]ll unauthorized reproductions, or disseminations or other uses of material contained in the EIG Services shall be deemed willful infringement of EIG’s copyright and/or other proprietary and intellectual property rights.” *Id.*

32. No agreement has ever authorized Defendant to copy, transmit, or forward the OD Copyrighted Works, including the April 23, 2015 OD Copyrighted Work, in violation of Plaintiffs’ registered copyrights.

33. Defendant has accepted the terms and conditions in the subscription agreements provided by Plaintiffs, including the Agreement.

C. Defendant’s PIW Subscription History

34. From at least as early as 1997 through the present, Defendant has maintained a single-copy subscription to PIW.

35. Defendant received PIW by print or fax delivery until on or about May 6, 2002, when Defendant elected to receive its single copy of PIW via email delivery as a PDF attachment. At that time, the designated recipient of the PIW publication was Fred Martin, Jr., and the email address designated for delivery of OD was kjohnson@urc.com.

36. On or about November 22, 2002, Defendant submitted a request to Plaintiffs to change the name on the account from Fred Martin, Jr. to Kim California, and that change was made by Plaintiffs.

37. On or about May 7, 2004, Defendant submitted a renewal and changed the designated email address for the account from kjohnson@urc.com to kcalifornia@urc.com.

38. On or about July 27, 2011, Defendant submitted a request to Plaintiffs to change the name on this account from Kim California to Kelly Schwanke, and change the designated email address on the account from kcalifornia@urc.com to kschwanke@urc.com, and these changes were made by Plaintiffs.

39. Defendant's current single-copy subscription to PIW expires on June 27, 2016.

40. From at least as early as 1997 through the present, Plaintiffs transmitted to Defendant an invoice and subscription agreement on an annual basis for the renewal of the single-copy subscription to PIW. The Agreement is also the subscription agreement for the single-copy subscription to PIW in effect on April 20, 2015, and, once again, it specifically states that "[b]y payment hereof, you hereby acknowledge receipt, review and acceptance of Energy Intelligence's terms and conditions shown below," *See* Exhibit G.

41. The Agreement further states in part that "[a]ll unauthorized reproductions, or disseminations or other uses of material contained in the EIG Services shall be deemed willful infringement of EIG's copyright and/or other proprietary and intellectual property rights." *Id.*

42. No agreement has ever authorized Defendant to copy, transmit, or forward the PIW Copyrighted Works, including the April 20, 2015 PIW Copyrighted Work, in violation of Plaintiffs' registered copyrights.

43. Defendant has accepted the terms and conditions in the subscription agreements provided by Plaintiffs, including the Agreement.

D. Defendant's Infringement of Plaintiffs' Copyrighted Works

44. On or about April 23, 2015, Plaintiffs' employee Derrick Dent contacted Defendant in order to follow up regarding the renewal of Defendant's single-copy subscriptions to OD and PIW.

45. Mr. Dent's initial conversation was with Ms. Kim California, who had previously been the designated recipient of Defendant's single-copy subscriptions to OD and PIW.

46. During this phone call, Ms. California told Mr. Dent that Ms. Kelly Schwanke, an administrative assistant, is the current designated recipient of Defendant's subscriptions. Mr. Dent subsequently ended his call with Ms. California and contacted Ms. Schwanke at the phone number provided by Ms. California.

47. During Mr. Dent's phone call with Ms. Schwanke, Mr. Dent confirmed the current information in Plaintiffs' system relating to Defendant's single-copy subscriptions to OD and PIW.

48. Additionally, Mr. Dent inquired how Ms. Schwanke uses the OD and PIW publications. Ms. Schwanke informed Mr. Dent that she emails OD to six (6) other individuals employed by Defendant and that she emails PIW to three (3) other individuals employed by Defendant.

49. Mr. Dent asked Ms. Schwanke if Defendant had any interest in obtaining additional licenses for the OD and/or PIW publication. Ms. Schwanke replied that she did not, and indicated that Plaintiffs should continue to send the OD and PIW publications to her, and she would take care of emailing them to the others within Defendant.

50. Upon information and belief, Defendant's email system is highly secure and only those individuals or entities that Defendant designates may access the system.

51. Upon information and belief, Defendant's email system cannot be accessed by the general public or by Plaintiffs.

52. Upon information and belief, Defendant has been regularly and systematically copying and forwarding the OD Copyrighted Works and the articles contained therein since at least as early as 1999.

53. Upon information and belief, Defendant has been regularly and systematically copying and forwarding the PIW Copyrighted Works and the articles contained therein since at least as early as 2002.

54. Upon information and belief, Defendant actively and willfully concealed its regular and systematic copying and forwarding of the OD Copyrighted Works, the PIW Copyrighted Works, and the articles contained within the respective publications, from Plaintiffs.

55. Upon information and belief, Defendant's actions of copying and forwarding the OD Copyrighted Works constitute willful infringement of Plaintiffs' valid and subsisting copyrights in the OD Copyrighted Works and the articles therein.

56. Upon information and belief, Defendant's actions of copying and forwarding the PIW Copyrighted Works constitute willful infringement of Plaintiffs' valid and subsisting copyrights in the PIW Copyrighted Works and the articles therein.

COUNT ONE
(COPYRIGHT INFRINGEMENT OF
THE OD COPYRIGHTED WORKS)

57. Plaintiffs incorporate the allegations of Paragraphs 1– 56 as though fully set forth herein.

58. Plaintiffs were and are the exclusive holders of all rights, title, and interest in and to the OD Copyrighted Works and the articles, as separate and distinct works, contained therein and are the owners of valid copyright registrations and/or pending applications for the OD Copyrighted Works. *See* Exhibit E.

59. Each entire publication and the articles contained in the OD Copyrighted Works are highly original and contain creative expression and independent analysis. *See* Exhibit A.

60. The OD Copyrighted Works and the articles contained therein were made available to and were received by Defendant pursuant to subscription agreements.

61. Upon information and belief, Defendant has for years willfully copied and distributed copies of the OD Copyrighted Works and the articles contained therein on a consistent and systematic basis, and concealed these activities from Plaintiffs.

62. Based upon the inclusion of the Copyright Notice and Warnings contained in each of Plaintiffs' publications, the language in the subscription agreements, and the various warnings contained in each of Plaintiffs' publications, including the OD Copyrighted Works and the weekly transmittal cover emails, Defendant was on notice and knew or should have known that the OD Copyrighted Works were and are protected by the copyright laws, and therefore is unable to assert a defense of innocent infringement. *See* 17 U.S.C. § 401(d).

63. Defendant's subscription agreements to the OD Copyrighted Works prohibit any copying and distributing of any article or issue of OD, including the April 23, 2015 OD Copyrighted Work.

64. Upon information and belief, Defendant willfully infringed the copyrights in the OD Copyrighted Works and the articles contained therein by acting with knowledge that its actions constituted infringement, or with reckless disregard that the conduct complained about constitutes infringement.

65. Defendant's aforesaid acts violate Plaintiffs' exclusive rights under § 106 of the Copyright Act of 1976, 17 U.S.C. § 106, as amended, and constitute willful infringement of Plaintiffs' copyrights in the OD Copyrighted Works and the articles contained therein.

66. Defendant's past and continuing copying, transmitting and forwarding of Plaintiffs' OD Copyrighted Works and the articles contained therein constitute a willful, deliberate and ongoing infringement of Plaintiffs' copyrights and are causing irreparable harm and damage to Plaintiffs.

67. Plaintiffs have no adequate remedy at law.

COUNT TWO
**(COPYRIGHT INFRINGEMENT OF
THE PIW COPYRIGHTED WORKS)**

68. Plaintiffs incorporate the allegations of Paragraphs 1– 67 as though fully set forth herein.

69. Plaintiffs were and are the exclusive holders of all rights, title, and interest in and to the PIW Copyrighted Works and the articles, as separate and distinct works, contained therein and are the owners of valid copyright registrations and/or pending applications for the PIW Copyrighted Works. *See* Exhibit F.

70. Each entire publication and the articles contained in the PIW Copyrighted Works are highly original and contain creative expression and independent analysis. *See* Exhibit B.

71. The PIW Copyrighted Works and the articles contained therein were made available to and were received by Defendant pursuant to subscription agreements.

72. Upon information and belief, Defendant has for years willfully copied and distributed copies of the PIW Copyrighted Works and the articles contained therein on a consistent and systematic basis, and concealed these activities from Plaintiffs.

73. Based upon the inclusion of the Copyright Notice and Warnings contained in each of Plaintiffs' publications, the language in the subscription agreements, and the various warnings contained in each of Plaintiffs' publications, including the PIW Copyrighted Works and the

weekly transmittal cover emails, Defendant was on notice and knew or should have known that the PIW Copyrighted Works were and are protected by the copyright laws, and therefore is unable to assert a defense of innocent infringement. *See* 17 U.S.C. § 401(d).

74. Defendant's subscription agreements to the PIW Copyrighted Works prohibit any copying and distributing of any article or issue of PIW, including the April 20, 2015 PIW Copyrighted Work.

75. Upon information and belief, Defendant willfully infringed the copyrights in the PIW Copyrighted Works and the articles contained therein by acting with knowledge that its actions constituted infringement, or with reckless disregard that the conduct complained about constitutes infringement.

76. Defendant's aforesaid acts violate Plaintiffs' exclusive rights under § 106 of the Copyright Act of 1976, 17 U.S.C. § 106, as amended, and constitute willful infringement of Plaintiffs' copyrights in the PIW Copyrighted Works and the articles contained therein.

77. Defendant's past and continuing copying, transmitting and forwarding of Plaintiffs' PIW Copyrighted Works and the articles contained therein constitute a willful, deliberate and ongoing infringement of Plaintiffs' copyrights and are causing irreparable harm and damage to Plaintiffs.

78. Plaintiffs have no adequate remedy at law.

JURY DEMAND

Plaintiffs hereby demand a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendant on the foregoing claims as follows:

- (1) That Defendant, its directors, officers, agents, subsidiaries and affiliates and all persons acting by, through, or in concert with any of them, be permanently enjoined from infringing any copyrights of Plaintiffs in any manner, and from copying, exhibiting, transmitting, displaying, distributing or preparing derivative works from any of the copyrighted material in any past, present or future issue of OD and PIW, including the OD Copyrighted Works, the PIW Copyrighted Works, and the articles contained within each respective publication;
- (2) That Defendant be required to pay to Plaintiffs such actual damages as they have sustained and/or statutory damages as a result of Defendant's copyright infringement pursuant to 17 U.S.C. § 504;
- (3) That Defendant be required to account for and disgorge to Plaintiffs all gains, profits, and advantages derived from its copyright infringement pursuant to 17 U.S.C. § 504;
- (4) That Defendant be required to pay Plaintiffs an increase in the award of statutory damages due to Defendant's willful infringement pursuant to 17 U.S.C. § 504(c)(2);
- (5) That the Court issue an Order requiring Defendant to hold harmless and indemnify Plaintiffs from any claim(s) raised by any third party who allegedly relied upon any of Plaintiffs' publications it received as a result of Defendant's unauthorized use of the Plaintiffs' copyrighted materials;
- (6) That the Court enter judgment against Defendant in favor of Plaintiffs for all claims, including pre-judgment and post-judgment interest, as allowed by law;

- (7) That the Court enter judgment against Defendant finding that its unlawful copying, transmitting, and forwarding of the OD Copyrighted Works, the PIW Copyrighted Works, and the articles contained within each respective publication is willful;
- (8) That Defendant be ordered to pay Plaintiffs' costs in this action along with reasonable attorneys' fees; and
- (9) That Plaintiffs be granted such further relief as the Court deems just and proper.

Respectfully submitted,

Dated: November 12, 2015

By: /s/ Mark A. Willard

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